

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

1) VIDEO GAMING TECHNOLOGIES, INC., )  
  )  
  )  
  )  
Plaintiff, )  
  )  
  )  
v.   ) Case No. 4:17-cv-00454-GKF-jfj  
  )  
1) CASTLE HILL STUDIOS LLC )  
(d/b/a CASTLE HILL GAMING); )  
2) CASTLE HILL HOLDING LLC )  
(d/b/a CASTLE HILL GAMING); and )  
3) IRONWORKS DEVELOPMENT, LLC )  
(d/b/a CASTLE HILL GAMING) )  
  )  
Defendants. )

**PLAINTIFF'S MOTION TO SEAL RESPONSE TO DEFENDANTS'  
MOTION TO EXCLUDE PLAINTIFF'S EXPERT YORAM WIND**

Pursuant to Local Rule 79.1, General Order In Re The Use of Confidential Information In Civil Cases (“GO 08-11”), and paragraph 2(f) of the Stipulated Protective Order (Dkt. 55), Plaintiff Video Gaming Technologies, Inc. (“VGT”), hereby requests that the Court enter an order to seal Plaintiff’s unredacted Response to Defendants’ Motion to Exclude Plaintiff’s Expert Yoram Wind (“the Response”) and Exhibits A, B, D, F, G, J, and K to the Declaration of Gary Rubman in Support of Plaintiff’s Response and Brief in Opposition to Defendants’ Motion to Exclude Yoram Wind (“the Rubman Declaration”) (collectively, Dkt. 211). In support of this motion, Plaintiff states the following:

1.       Portions of the Response contain information designated by Plaintiff and Defendants as Confidential or Highly Confidential Information pursuant to paragraph 2(a) of the Stipulated Protective Order (Dkt. 55).

2. Portions of the Response contain discussion of deposition testimony that has been designated as Confidential Information pursuant to paragraph 2(c) of the Stipulated Protective Order (Dkt. 55).

3. Exhibit A to the Rubman Declaration consists of the Corrected Expert Report of Yoram Wind Relating to the Likelihood of Confusion Between VGT and CHG Electronic Gaming Machines. Pursuant to paragraphs 2(a)-(c) of the Stipulated Protective Order (Dkt. 55), VGT has designated portions of this report as Confidential or Highly Confidential Information.

4. Exhibit B to the Rubman Declaration consists of the Reply Expert Report of Yoram Wind. Pursuant to paragraphs 2(a)-(c) of the Stipulated Protective Order (Dkt. 55), VGT has designated portions of this report as Confidential or Highly Confidential Information.

5. Exhibit D to the Rubman Declaration consists of excerpts from the deposition testimony of James T. Berger, dated September 26, 2018, which pursuant to paragraph 2(c) of the Stipulated Protective Order (Dkt. 55), CHG has designated as Confidential Information.

6. Exhibit F to the Rubman Declaration consists of excerpts from the deposition testimony of Stacy Friedman, dated September 24, 2018, which pursuant to paragraph 2(c) of the Stipulated Protective Order (Dkt. 55), should be treated as Highly Confidential Information.

7. Exhibit G to the Rubman Declaration consists of a Castle Hill Gaming EGM Performance Report, which was produced by CHG during discovery and is marked with Bates number CHG0023339-52. Pursuant to paragraph 2(a) of the Stipulated Protective Order (Dkt. 55), CHG has designated this document as Highly Confidential Information.

8. Exhibit J to the Rubman Declaration consists of a VGT Gaming Patron Profile, which was produced by VGT during discovery. Pursuant to paragraph 2(a) of the Stipulated

Protective Order (Dkt. 55), VGT has designated this document as Highly Confidential Information.

9. Exhibit K to the Rubman Declaration consists of excerpts from CHG's Third Supplemental Objections and Responses to Plaintiff's First Interrogatories to Defendants, which pursuant to paragraph 2(a) of the Stipulated Protective Order (Dkt. 55), CHG has marked as Highly Confidential Information.

10. In accordance with Local Rule 79.1, GO 08-11, and the Stipulated Protective Order, Plaintiff has public, redacted versions of the Response and Rubman Declaration (collectively, Dkt. 209), as well as sealed, unredacted versions of the Response and Rubman Declaration (collectively, Dkt. 211).

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order granting sealing of Plaintiff's Response to Defendants' Motion to Exclude Plaintiff's Expert Yoram Wind and exhibits A, B, D, F, G, J, and K to the Rubman Declaration (collectively, Dkt. 211).

November 16, 2018

Respectfully submitted,

/s/ Gary Rubman  
Graydon Dean Luthey, Jr., OBA No. 5568  
GABLE GOTWALS  
1100 ONEOK Plaza  
100 West Fifth Street  
Tulsa, OK 74103-4217  
Telephone: (918) 595-4821  
Facsimile: (918) 595-4990  
dluthey@gablelaw.com

Gary M. Rubman  
Peter A. Swanson  
Michael S. Sawyer  
Rebecca B. Dalton  
COVINGTON & BURLING LLP  
One CityCenter  
850 Tenth Street, NW

Washington, D.C. 20001-4956  
Telephone: (202) 662-6000  
Facsimile: (202) 778-5465  
grubman@cov.com  
pswanson@cov.com  
msawyer@cov.com  
rdalton@cov.com  
(admitted pro hac vice)

Neil K. Roman  
COVINGTON & BURLING LLP  
The New York Times Building  
620 Eighth Avenue  
New York, NY 10018-1405  
Telephone: (212) 841-1221  
Facsimile: (212) 841-1010  
nroman@cov.com  
(admitted pro hac vice)

*Counsel for Video Gaming Technologies, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 16, 2018, I filed the foregoing via CM/ECF, which caused service to be effected on the following counsel for Defendants:

Robert C. Gill  
Thomas S. Schaufelberger  
Matthew J. Antonelli  
Henry A. Platt  
SAUL EWING ARNSTEIN & LEHR, LLP  
1919 Pennsylvania Avenue, NW, Suite 550  
Washington, D.C. 20006  
(202) 295-6605  
(202) 295-6705 (facsimile)  
[robert.gill@saul.com](mailto:robert.gill@saul.com)  
[tschauf@saul.com](mailto:tschauf@saul.com)  
[matt.antonelli@saul.com](mailto:matt.antonelli@saul.com)  
[henry.platt@saul.com](mailto:henry.platt@saul.com)

Sherry H. Flax  
SAUL EWING ARNSTEIN & LEHR, LLP  
500 E. Pratt Street, Suite 900  
Baltimore, Maryland 21202  
(410) 332-8764  
(410) 332-8785 (facsimile)  
[sherry.flax@saul.com](mailto:sherry.flax@saul.com)

James C. Hodges, OBA 4254  
JAMES C. HODGES, PC  
2622 East 21st Street, Suite 4  
Tulsa, OK 74114  
Telephone: (918) 779-7078  
[JHodges@HodgesLC.Com](mailto:JHodges@HodgesLC.Com)

Duane H. Zobrist  
Jonathan S. Jacobs  
ZOBRIST LAW GROUP PLLC  
1900 Arlington Blvd. Suite B  
Charlottesville, VA 22903  
Telephone: (434) 658-6400  
[dzobrist@zoblaw.com](mailto:dzobrist@zoblaw.com)  
[jjacobs@zoblaw.com](mailto:jjacobs@zoblaw.com)

*Attorneys for Defendants*

/s/ Gary Rubman